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Act of April 1, 1942, 56 Stat. 195, ch. 207,
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RULES OF COURT CITED

Rules of the United States Court of Appeals for the District of Columbia Circuit Governing Review of Cases from the Municipal Court of Appeals:
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IN THE

Supreme Court of the United States

OCTOBER TERM, 1956

No. 263

SUSIE V. WATWOOD, *Petitioner*,

v.

DISTRICT OF COLUMBIA, *Respondent*.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

BRIEF FOR RESPONDENT IN OPPOSITION

OPINIONS BELOW

There were no opinions by the Municipal Court of Appeals for the District of Columbia and its orders denying applications for allowance of an appeal and for reconsideration are not reported, but copies thereof appear in Appendix "A" of respondent's brief at pages 2-6. There was no opinion by the United States Court of Appeals for the District of Columbia Circuit and its order denying an appeal from the order of the Municipal Court of Appeals for the District of Columbia denying reconsideration of prior orders is not

reported, but a copy thereof appears in Appendix "B" of respondent's brief at page 8.

JURISDICTION

The orders of the Municipal Court of Appeals for the District of Columbia denying applications for allowance of appeal from the Municipal Court for the District of Columbia (Appendix "A," *infra*, pp. 2-6) were entered November 28, 1955. The order of the Municipal Court of Appeals denying reconsideration (Appendix "A," *infra*, p. 7) was entered April 25, 1956. The order of the United States Court of Appeals for the District of Columbia Circuit denying appeal from the Municipal Court of Appeals for the District of Columbia (Appendix "B," *infra*, p. 8) was entered June 21, 1956.

The petition for a writ of certiorari was filed July 19, 1956, and the jurisdiction of this Court was invoked under 28 U. S. C., Sec. 1254.

QUESTIONS PRESENTED

Petitioner was convicted in the Criminal Division of the Municipal Court for the District of Columbia of five petty offenses involving violations of local police regulations. Applications to the Municipal Court of Appeals for the District of Columbia for allowance of appeal were denied. Almost five months thereafter petitioner filed a motion for reconsideration and, upon its denial, petitioned the United States Court of Appeals for the District of Columbia Circuit for allowance of appeal which was also denied.

In the opinion of the respondent, the questions presented are:

1. Is petitioner entitled to a review by this Court of the order of the Circuit Court which denied appeal to it from the order of the Municipal Court of Appeals denying re-

consideration of orders entered almost five months prior thereto?

2. In view of the record, which shows that the matters involved arose out of the enforcement of police regulations of purely local application (See Original Record), is this a proper case for the exercise of the jurisdiction of the Supreme Court to review on writ of certiorari?

STATUTES INVOLVED

Revised Judicial Code, 1948 edition Title 28 U. S. C., Chap. 81, Sec. 1254.

Act of Congress approved April 1, 1942, 56 Stat. 195, Chap. 207, Secs. 7 and 8. Title 11-772, 11-773, D. C. Code, 1951 edition.

RULES OF COURT INVOLVED

Rules of the United States Court of Appeals for the District of Columbia Circuit Governing Review of Cases from the Municipal Court of Appeals:

Rule 1.

The pertinent text of the Statutes and Rules of Court involved are set forth in Appendix "C" hereto.

COUNTER-STATEMENT OF THE CASE

On October 25, 1955 petitioner was found guilty in the Criminal Division of the Municipal Court for the District of Columbia on five informations, four of which charged petitioner with violations of the Traffic and Motor Vehicle Regulations, and the remaining one of which charged petitioner with disorderly conduct. On each of three of the charges petitioner was sentenced to pay a fine of $3.00 or, in default, to serve two days imprisonment; and on the fourth traffic charge she was sentenced to pay a fine of $5.00 or, in default, to serve two days imprisonment. The sentence imposed on the disorderly conduct charge was a fine of $10.00 or, in default, to serve two days imprisonment. The

later sentence however, was, on the same day, set aside and vacated and the imposition of a new sentence was suspended.

Petitioner made timely applications to the Municipal Court of Appeals for the District of Columbia for allowance of appeal from the judgment of conviction on each of the five charges and on November 28, 1955 the application in each case was denied pursuant to Section 11-772, D. C. Code, 1951 Edition (Appendix "A," *infra*, pp. 2-6).

Five months later, on April 11, 1956, petitioner filed a motion in the Municipal Court of Appeals for the District of Columbia requesting reconsideration of that court's orders of November 28, 1955 denying the applications for allowance of appeal, and on April 25, 1956 the motion for reconsideration was denied (Appendix "A," *infra*, p. 7). Petitioner then filed in the United States Court of Appeals for the District of Columbia Circuit a petition for allowance of appeal from the "Judgment of the Municipal Court of Appeals for the District of Columbia entered on the 25th day of April, 1956" (Appendix "B," *infra*, p. 8). On June 21, 1956 the United States Court of Appeals for the District of Columbia Circuit made an order denying appeal (Appendix "B," *infra*, p. 8).

SUMMARY OF THE ARGUMENT

The United States Court of Appeals for the District of Columbia Circuit having denied appeal from the order of the Municipal Court of Appeals, this case is not a "case in the court[s] of appeals" for the purposes of review by the Supreme Court on writ of certiorari.

The matters of which petitioner complains arose out of the enforcement of laws of purely local application (See Original Record), and the Municipal Court of Appeals for the District of Columbia having determined that there was substantial evidence to support the judgments of conviction, such determination had the effect of an affirmance from which there could be no further appeal.

ARGUMENT

I

Under no theory is petitioner entitled to a review by this Court of the order of the United States Court of Appeals.

Petitioner would have this Court review the action of the United States Court of Appeals for the District of Columbia Circuit in denying an appeal from an order of the Municipal Court of Appeals for the District of Columbia (Appendix "B," *infra*, p. 8). To this end petitioner has invoked the provisions of 28 U. S. C., Ch. 81, Sec. 1254, which provides in pertinent part:

> "Sec. 1254. Courts of appeals; certiorari; * * * Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:
>
> (1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, * * *."

The fact, apparent from the record (Appendix "B," *infra*, p. 8), that the United States Court of Appeals for this Circuit denied appeal to it from the order of the Municipal Court of Appeals is proof positive that this case was never "in the court[s] of appeals" for the purposes of review under 28 U. S. C., Sec. 1254, *supra*. See, in this connection, *Ferguson* v. *District of Columbia*, 270 U. S. 633, 46 S. Ct. 355, 80 L. Ed. 771, where a writ of certiorari to review an order of the United States Court of Appeals for the District of Columbia, denying a writ of error to the Police Court of the District, was denied for want of jurisdiction under Section 240 of the Judicial Code, as amended by the Act of February 13, 1925, Chap. 229, 43 Stat. 938 (now 28 U. S. C., § 1254). And see *Simato* v. *District of Columbia*, D. C. Mun. App., 108 A. 2d 376, app. den. U. S. Ct. App. D. C., cert. den. 349 U. S. 963, 99 L. Ed. 1285; *Ford* v. *District of*

Columbia, D. C. Mun. App., 102 A. 2d 838, aff. 95 U. S. App. D. C. 87, 219 F. 2d 769, cert. den. 349 U. S. 964, 99 L. Ed. 1286; *Nowinski* v. *Hagner and Company*, D. C. Mun. App., 100 A. 2d 452, app. den. U. S. Ct. of Appeals, D. C., cert. den. 347 U. S. 991, 98 L. Ed. 1124.

But even if this case be considered a "case in the court[s] of appeals" within the purview of 28 U. S. C., § 1254, *supra*, it is crystal clear from the record that petitioner is not entitled to a review by this Court.

The order, review of which is sought (Appendix "B," *infra*, p. 8) denied an appeal to the United States Court of Appeals for this Circuit from an order of the Municipal Court of Appeals for the District of Columbia (Appendix "A," *infra* p. 7), which denied reconsideration of orders of that court entered *five months prior* to the time reconsideration was sought (Appendix "A," *infra*, pp. 2-6).

The latter orders denied applications for allowance of appeal from judgments of the Criminal Division of the Municipal Court for the District of Columbia in five petty cases. In each of three of the cases the penalty imposed was $3.00; in the fourth, the penalty was $5.00; and in the fifth, the penalty was $10.00. The penalty imposed in each of the cases carried an alternate jail sentence of two days. The sentence in the latter case, however, was vacated on the same day and the imposition of a new sentence was suspended.

Since the penalty imposed in each of the five cases was less than $50.00, review of the judgments of conviction was controlled by the Act of April 1, 1942, § 11-772, D. C. Code, 1951 Edition (Appendix "C," *infra*, p. 9). The language of that section is unambiguous and expresses the clear intention of the Congress that the denial by the Municipal Court of Appeals of an appeal in such cases "* * * shall stand as an affirmance of the judgment of the trial court, from which there shall be no further appeal * * *." It is, therefore, too clear for futher discussion that, upon entry of the orders of November 28, 1955 (Appendix "A," *infra*, 2-6),

petitioner's right to seek review of the judgments of conviction was exhausted.

And petitioner acquired no right to a further review by filing on April 13, 1956, almost five months thereafter, a motion for reconsideration of such orders (Appendix "A," *infra*, p. 6). See, in this connection, *Gersing, et al.* v. *Chafitz, et al.*, 77 U. S. App. D. C. 38, 133 F. 2d 381; *Randolph* v. *Randolph*, 91 U. S. App. D. C. 170, 178 F. 2d 956, where it was held, consistent with the general rule in criminal cases, that an appeal does not lie from an order denying a motion for reconsideration, but that the appeal must be taken from the judgment itself.

II

Ordinarily this Court will not review cases involving the enforcement of laws of purely local application in the District of Columbia.

This Court has generally refused to review decisions of courts of the District of Columbia in cases arising out of the enforcement of laws limited in their application to, or which declare the common law of, the District of Columbia. *American Security and T. Co.* v. *District of Columbia*, 224 U. S. 491, 32 S. Ct. 553, 56 L. Ed. 856; *Del Vecchio* v. *Bowers*, 296 U. S. 280, 56 S. Ct. 190, 80 L. Ed. 229; *District of Columbia* v. *Pace*, 320 U. S. 698, 702, 64 S. Ct. 406, 88 L. Ed. 408; *United Surety Co.* v. *American Fruits Product Co.*, 238 U. S. 140, 35 S. Ct. 882, 59 L. Ed. 1238. See also *Griffith* v. *United States*, 336 U. S. 704, 718, 69 S. Ct. 814, 93 L. Ed. 993, rehear. den. 337 U. S. 921, 69 S. Ct. 1152, 93 L. Ed. 1730; *Fisher* v. *United States*, 328 U. S. 463, 66 S. Ct. 1318, 90 L. Ed. 1382, 166 A. L. R. 1176.

Since there has been herein no decision by the United States Court of Appeals for this Circuit on any question of Federal law, this case is clearly not of the class of cases contemplated by Rule 19(b) of the Rules of this Court.

Petitioner contends that at the trial she was (1) denied an opportunity to obtain a court reporter, (2) denied counsel, (3) not given notice that she was being charged with disorderly conduct, (4) denied competent assistance in the preparation of her appeal, (5) denied a jury trial, and (6) entitled to a review as a matter of right. Significantly enough, however, petitioner has referred the Court to no portion of the record which supports any such contentions. Moreover, there is nothing in the record to show that any such points were raised at the trial or in the applications for allowance of appeal filed in the Municipal Court of Appeals.

The conclusion is, therefore, irresistible that the petition filed herein is wholly lacking substance.

CONCLUSION

Accordingly respondent respectfully submits that *the* petition for writ of certiorari should be denied.

Respectfully submitted,

VERNON E. WEST,
Corporation Counsel, D. C.,
CHESTER H. GRAY,
Principal Assistant Corporation Counsel, D. C.,
HUBERT B. PAIR,
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APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

APRIL TERM, 1956

No. 13336

SUSIE V. WATWOOD, *Petitioner*,

v.

DISTRICT OF COLUMBIA, *Respondent*.

No. 13341

SUSIE V. WATWOOD, *Petitioner*,

v.

DISTRICT OF COLUMBIA, *Respondent*.

No. 13342

SUSIE V. WATWOOD, *Petitioner*,

v.

DISTRICT OF COLUMBIA, *Respondent*.

No. 13343

SUSIE V. WATWOOD, *Petitioner*,

v.

DISTRICT OF COLUMBIA, *Respondent*.

No. 13344

SUSIE V. WATWOOD, *Petitioner*,

v.

DISTRICT OF COLUMBIA, *Respondent*.

PETITION FOR ALLOWANCE OF APPEAL FROM THE MUNICIPAL COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA.

Dated May 9, 1956.

IN THE
MUNICIPAL COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA

Numbers 1326, 1327, 1328, 1329, 1330 Original

SUSIE V. WATWOOD, *Applicant*,

v.

DISTRICT OF COLUMBIA, *Respondent*.

APPLICATION FOR ALLOWANCE OF APPEAL FROM THE MUNICIPAL COURT FOR THE DISTRICT OF COLUMBIA, CRIMINAL DIVISION

Dated October 28, 1955

* * * * * * * * *

7 No. 1326 ORIGINAL

OCTOBER TERM, 1955

D. C. 22473-55

SUSIE V. WATWOOD, *Applicant*,

v.

DISTRICT OF COLUMBIA, *Respondent*.

ORDER

The application for allowance of appeal from the judgment of the Municipal Court for the District of Columbia,

Criminal Division, entered in the above entitled case on October 25, 1955, having been submitted to and considered by the chief judge and both associate judges, and each of them being of the opinion that the appeal should be denied, it is

ORDERED That the application be and the same is hereby denied in accordance with Code 1951, 11-772.

BY THE COURT:

NATHAN CAYTON, *Chief Judge.*

Dated November 28, 1955.

* * * * * * * * *

21 No. 1327 ORIGINAL

OCTOBER TERM, 1955

TR-10073-55

SUSIE V. WATWOOD, *Applicant,*

v.

DISTRICT OF COLUMBIA, *Respondent.*

ORDER

The application for allowance of appeal from the judgment of the Municipal Court for the District of Columbia, Criminal Division, entered in the above entitled case on October 25, 1955, having been submitted to and considered by the chief judge and both associate judges, and each of them being of the opinion that the appeal should be denied, it is

ORDERED That the application be and the same is hereby denied in accordance with Code 1951, 11-772.

BY THE COURT:

NATHAN CAYTON, *Chief Judge.*

Dated November 28, 1955.

* * * * * * * * *

26 No. 1328 ORIGINAL.

OCTOBER TERM, 1955

TP-10074-55

SUSIE V. WATWOOD, *Applicant,*

v.

DISTRICT OF COLUMBIA, *Respondent.*

ORDER

The application for allowance of appeal from the judgment of the Municipal Court for the District of Columbia, Criminal Division, entered in the above entitled case on October 25, 1955, having been submitted to and considered by the chief judge and both associate judges, and each of them being of the opinion that the appeal should be denied, it is

ORDERED That the application be and the same is hereby denied in accordance with Code 1951, 11-772.

BY THE COURT:

NATHAN CAYTON, *Chief Judge.*

Dated November 28, 1955.

* * * * * * * * *

33 No. 1329 ORIGINAL

OCTOBER TERM, 1955

TR-10075-55

SUSIE V. WATWOOD, *Applicant*,

v.

DISTRICT OF COLUMBIA, *Respondent*.

ORDER

The application for allowance of appeal from the judgment of the Municipal Court for the District of Columbia, Criminal Division, entered in the above entitled case on October 25, 1955, having been submitted to and considered by the chief judge and both associate judges, and each of them being of the opinion that the appeal should be denied, it is

ORDERED That the application be and the same is hereby denied in accordance with Code 1951, 11-772.

BY THE COURT:

NATHAN CAYTON, *Chief Judge*.

Dated November 28, 1955.

* * * * * * * * *

38 No. 1330 ORIGINAL

OCTOBER TERM, 1955

TR-10076-55

SUSIE V. WATWOOD, *Applicant*,

v.

DISTRICT OF COLUMBIA, *Respondent*.

ORDER

The application for allowance of appeal from the judgment of the Municipal Court for the District of Columbia, Criminal Division, entered in the above entitled case on October 28, 1955, having been submitted to and considered by the chief judge and both associate judges, and each of them being of the opinion that the appeal should be denied, it is

ORDERED That the application be and the same is hereby denied in accordance with Code 1951, 11-772.

BY THE COURT:

NATHAN CAYTON, *Chief Judge.*

Dated November 28, 1955.

* * * * * * * * *

8 Numbers 1326, 1327, 1328, 1329, 1330

SUSIE V. WATWOOD, *Applicant,*

v.

DISTRICT OF COLUMBIA, *Respondent.*

MOTION FOR RECONSIDERATION

Comes now applicant, Susie V. Watwood, and moves this Honorable Court for reconsideration of an application for an appeal filed herein on October 28, 1955, on the following grounds: * * *

Dated April 13, 1956.

16 * * * *

April 25, 1956

The following action was this day taken by the Court in Case Nos. 1326-1330 Orig.

Watwood v. District of Columbia

Motion for Reconsideration—denied.

C. Newell Atkinson, *Clerk*.

* * * * * * * * * *

39 I, C. Newell Atkinson, Clerk of the Municipal Court of Appeals for the District of Columbia, hereby certify the foregoing printed and typewritten pages, numbered from 1-38, inclusive, to be a true and correct copy of the record and proceedings in the case of

Susie V. Watwood, *Applicant*,

v.

District of Columbia, *Respondent*.

Numbers 1326, 1327, 1328, 1329, 1330.

Dated May 8, 1956.

APPENDIX B

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

April Term, 1956

Nos. 13336, 13341, 13342, 13343, 13344

Susie V. Watwood, *Petitioner*,

v.

District of Columbia, *Respondent*.

PETITION FOR ALLOWANCE OF APPEAL FROM THE MUNICIPAL COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA.

Petition is hereby made by Susie V. Watwood, 1620 Fuller Street, N. W., Washington, D. C., for allowance of an appeal from the judgment of the Municipal Court of Appeals for the District of Columbia, entered on the 25th day of April, 1956, in the case entitled *Susie V. Watwood* v. *D. C.*, Nos. 1326, 1327, 1328, 1329, 1330, in said Municipal Court of Appeals in favor of the District of Columbia against said Susie V. Watwood.

Dated May 5, 1956.

* * * * * * * * *

ORDER

Upon consideration of the petition for allowance of an appeal from the judgment of the Municipal Court of Appeals for the District of Columbia entered herein on April 25, 1956, of petitioner's brief in support and of respondent's brief in opposition thereto, it is

ORDERED by the Court that the aforesaid petition for allowance of an appeal be, and it is hereby, denied.

Per Curiam.

Dated June 21, 1956

* * * * * * * * *

APPENDIX C

STATUTES INVOLVED

Revised Judicial Code, 1948 Edition, Title 28, U. S. C., Chap. 81, § 1254. Courts of appeals; certiorari; * * * Cases in the courts of appeals may be reviewed by the Supreme Court in the following methods:

(1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree; * * *

Act of Congress approved April 1, 1942, 56 Stat. 195, ch. 207, § 7 (§ 11-772, D. C. Code, 1951 edition):

"(a) Any party aggrieved by any final order or judgment of the Municipal Court for the District of Columbia * * * may appeal therefrom as of right to The Municipal Court of Appeals for the District of Columbia * * *: *Provided, however,* That * * * reviews of judgments in the criminal branch of the court where the penalty imposed is less than $50.00, shall be by application for the allowance of an appeal, filed in said Municipal Court of Appeals. Said application shall be on a standard form, in simple language, prescribed by The Municipal Court for the District of Columbia. * * * It shall be promptly presented by the clerk to the chief judge and to each of the associate judges for their consideration. If they or any one of them are of the opinion that the appeal should be allowed, the appeal shall be recorded as granted. * * * *If the chief judge and both associate judges shall be of the opinion that an appeal should be denied, such denial shall stand as an affirmance of the judgment of the trial court, from which there shall be no further appeal.* * * * " [Emphasis supplied]

Act of Congress approved April 1, 1942, 56 Stat. 196, ch. 207, § 8 (§ 11-773, D. C. Code, 1951 edition):

"Any party aggrieved by any judgment of The Municipal Court of Appeals for the District of Columbia may seek a review thereof by the United States Court of Appeals for the District of Colum-

bia by petition for the allowance of an appeal. The petition shall be in writing and shall be filed with the clerk of said United States Court of Appeals *within ten days after the entry of such judgment.* * * *" [Emphasis supplied]

RULES OF COURT INVOLVED

Rules of the United States Court of Appeals for the District of Columbia Governing Review of Cases from the Municipal Court of Appeals for the District of Columbia:

"Rule 1. *Character of Cases which May be Considered.*

Allowance of an appeal from the Municipal Court of Appeals is not a matter of right, but of sound judicial discretion, and will be granted only where there are special and important reasons therefor. * * *"